IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : C. Hudson Hendren III
Art Unit : 2155
Serial No. : 10/045,159
Examiner : K. Dinh
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Title : PROVIDING A NETWORK COMMUNICATION STATUS DESCRIPTION BASED ON USER CHARACTERISTICS

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

(1) Real Party in Interest

America Online, Inc. is the real party in interest.

(2) Related Appeals and Interferences

There are no related appeals and interferences.

(3) Status of Claims

Rejected Claims

24-54.

Cancelled Claims

1-23.

Claims Appealed

24-54.

(4) Status of Amendments

No amendments have been filed after the Final Office Action dated October 22, 2004.

(5) Summary of Claimed Subject Matter

The subject matter of independent claims 24, 35, and 38 relates to leveraging a user's technical proficiency as a basis for providing a message. *See, e.g.*, Application, page 5, line 25-page 6, line 7. Several messages are maintained, including at least a first message that

corresponds to a first level of technical proficiency and a second message that corresponds to a second level of technical proficiency. Application, page 8, lines 11-22; figure 6. Data related to a user's technical proficiency is received. *See* Application, page 7, lines 18-23. A message from the plurality of messages is selected and provided, for example, to a computer. *E.g.*, Application, page 9, lines 23-28. The message is selected based on the data related to the user's technical proficiency. *E.g., Id.*

The following summarizes a description from within the specification that is illustrative of the subject matter of these claims. A user submits a web browser request for a web page to a network server. Application, page 9, lines 15-16. The request is received by a proxy server, which forwards the request to the network server. Application, page 9, lines 16-17. Normally, the network server then retrieves the requested web page and sends it to the proxy server, which forwards the requested web page to the web browser. *See* Application, page 9, lines 18-23.

However, at times, the server may not return the requested web page. *See* Application, page 5, lines 5-15. Rather, the server may return a status description indicating why the web page was not returned. *See Id.* For instance, if the user mistypes the URL of the web page, then the mistyped URL may point to a web page that does not exist on the server. *See Id.* In such a case, the server may return a status description indicating that the web page was not found. *See* Application, figures 4 and 5. A version of the status description is ultimately displayed to the user on the client computer. *See* Application, page 5, line 5 – page 6, line 7. However, the version of the displayed status description varies based on technical proficiency of the requesting user. *Id.*

For example, more technically proficient users may receive a version of the status descriptor that merely indicates that a "404 error" has occurred. Application, page 5, line 28 – page 6, line 7. But this information may be relatively meaningless to less technical users and, accordingly, they may not understand that the file was not found. *Id.* Such users therefore would receive a more detailed or explanatory status description that is provided based on their technical proficiency. *Id.*

In one implementation, to accomplish this, a status description database is maintained at the proxy server and includes multiple descriptions of a status code, where each description differs in the information that is provided. Application, page 8, lines 11-22; figure 6; figure 7.

For a 404 status code, for example, a first description in the database corresponds to users who are more technically proficient and may simply state "HTTP Protocol Error 404." Application, page 5, lines 28-30. A second description in the database corresponds to users who are less technically proficient and may state "The file you entered doesn't exist. Look for typos and try re-entering the location." Application, page 5, line 30-page 6, line 5. The second description also may include hyperlinks to technical support sites. *Id.*

When the proxy server receives the 404 status code from the server, the proxy server selects the appropriate description based on received data related to the user's technical proficiency. Application, page 9, lines 23-27. For example, if the data received by the proxy server indicates that the user has a relatively high level of technical proficiency, then the first description is selected and sent to the web browser for display to the user. Application, page 5, lines 28-30. On the other hand, if the data received by the proxy indicates that the user has a relatively low level of technical proficiency, then the second description is selected and sent to the web browser for display to the user. Application, page 5, line 30-page 6, line 5.

(6) Grounds of Rejection

Claims 24-54 are rejected as obvious over U.S. Patent No. 6,105,027 (Schneider) in view of U.S. Patent No. 6,615,255 (Blaszczak).

(7) Argument

Rejections Under 35 USC 103

1. The rejections under 35 U.S.C. § 103(a) should be reversed because neither of U.S. Patent No. 6,105,027 (Schneider) or U.S. Patent No. 6,615,255 (Blaszczak) describe or suggest all of the claim limitations.

Independent claims 24, 35, and 38 are generally directed to providing messages or information based on a user's technical proficiency, as recited in the preamble of claims 24, 35, and 38. This is carried out in part by "receiving data related to a user's technical proficiency," as recited in the body of independent claims 24 and 38, or "a data receiver arranged and structured so as to receive data related to a user's technical proficiency," as recited in the body of claim 35.

Schneider and Blaszczak fail to teach or suggest these features of independent claims 24, 35, and 38. To establish *prima facie* obviousness of a claimed invention, *all* the claim limitations must be taught or suggested by the prior art. MPEP 2143. Accordingly, because they do not teach or suggest the above described features, Schneider and Blaszczak do not establish a *prima facie* case of obviousness with respect to independent claims 24, 35, and 38, or the claims that depend from them.

More particularly, the October 22 Office Action recognizes that Schneider does not disclose "the data information based on level of technical proficiency." Office Action mailed October 22, 2004, page 3, lines 1-2. Nevertheless, in an attempt to establish a *prima facie* case of obviousness, the October 22 Office Action cites to Blaszczak as disclosing that "the data information [is] based on level of technical proficiency" and contends that it would have been obvious to combine Blaszczak with Schneider to obtain the claimed subject matter. See October 22, 2004 Office Action, page 3, lines 2-9.

Appellant respectfully disagrees. Blaszczak simply does not describe or suggest receiving data related to a user's technical proficiency or providing a message based on such data.

Blaszczak describes a system that varies the configuration options displayed at a home system based on the *configuration* of a remote system. This "allows [a] user at the home system to configure any remote location without requiring the user to know the configuration of each remote system." To this end, "a generic shell [on the home system] allows the user to establish communications with any remote system." Blaszczak, col. 2, lines 11-13. "The generic shell exchanges information with the remote system to establish the current configuration of the software and hardware on the remote system." Blaszczak,, col. 2, lines 13-16. "Once the home system determines the configuration information, such as the software version and features that are installed on the remote system, it can then determine" the configuration logic objects corresponding to the configuration information and use those configuration logic objects "to select which options should be displayed to the user at the home system." Blaszczak,, col. 2, lines 17-21; col. 4, lines 45-47; *see generally* Blaszczak,, col. 4, lines 1-47.

In sum, Blaszczak's system attempts to ease the burden of configuring a remote system by displaying only those configuration options that are valid for the remote system's configuration. The options presented to the user are therefore based on the remote system's configuration, not on the user's technical proficiency. Moreover, none of the received data in Blaszczak's system (i.e., the configuration information and the configuration logic objects) is related to the user's technical proficiency.

To support the assertion that "Blaszczak discloses the data information based on level of technical proficiency" the action indicates that Blaszczak describes "providing a list of configuration objects according to users' proficiency" in the abstract; Figures 1 and 3; col. 1 lines 36-60; col. 3, line 33 to col. 4, line 60; and col. 5, lines 10-46. October 22 Office Action, page 3, lines 2-4; page 6, lines 13-14.

This simply is not the case. Col. 1, lines 36-60 merely describe the problems associated with not using Blaszczak's system, namely, configuring a remote system would require experienced and trained users at the home system who are technically proficient and able to remember the differing configurations of the remote systems to insure only valid configuration options for a given remote system are selected. *See* Blaszczak, col. 1, lines 36-60. Blaszczak's system attempts to solve this problem by displaying the configuration options that are valid for a given remote system, not by varying the configuration options to be displayed based on the user's technical proficiency.

The other sections of Blaszczak describe using the configuration logic objects to present configuration options that are valid based on the configuration of the particular remote system, as described above. *See* Blaszczak, abstract; Figures 1 and 3; col. 3, line 33 to col. 4, line 60; and col. 5, lines 10-46. User proficiency is in no way taken into account when deciding which configuration options to display.

The Office Action further states that "By maintaining a copy of each remote configuration logic object at the home location, the computer system could identify users with different technical proficiency and select the proper stored configuration logic object for a particular remote location/user." October 22 Office Action, page 6, lines 14-17. Even if Blaszczak's system *could* be modified to identify users with different technical proficiency, this

does not establish obviousness. "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." MPEP 2143.01 (citing *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). Indeed, Blaszczak does not suggest the desirability of identifying users with different technical proficiency and selecting a stored configuration logic object based on the user's technical proficiency. As described above, the configuration logic objects do not correspond or relate to a user's technical proficiency. Instead, the configuration logic objects "correspond to specific features of the run-time software on [the] remote systems" and are selected based on those specific features. Blaszczak,, col. 4, lines 32-37. Thus, selection of a particular object depends solely on the configuration of the remote system. It does not depend in any way on the user of the home system. Because the selection has nothing to do with the user, Blaszczak can not and does not suggest identifying the user's technical proficiency and selecting configuration logic objects based on that identification.

Accordingly, in the final analysis, the proposed combination of Schneider and Blaszczak does not provide for all of the claim elements in claims 24, 35, and 38. As such, the rejections of claims 24, 25, and 38 should be reversed, along with the rejections of the claims that depend therefrom.

The brief fee of $500.00 is enclosed. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 1/24/05

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Appendix of Claims

Claims 1-23 (Cancelled).

24. (Previously Presented): Â method of providing information based on a user's technical proficiency, the method comprising:

receiving data related to the user's technical proficiency;

selecting a message from a plurality of messages based upon the received data related to the user's technical proficiency, wherein the plurality of messages include a first message that corresponds to a first level of technical proficiency and a second message that corresponds to a second level of technical proficiency; and

providing the selected message.

25. (Original): The method of claim 24 wherein a first computer provides the message, and wherein the method further comprises transmitting the message to a second computer.

26. (Previously Presented): The method of claim 24 wherein the selecting further comprises performing the message selection at a client.

27. (Previously Presented): The method of claim 24, wherein the method further comprises inferring a level of user technical proficiency.

28. (Previously Presented): The method of claim 24, wherein selecting the message further comprises selecting the message based on one or more preferred languages of the user.

29. (Previously Presented): The method of claim 28 further comprising inferring the one or more preferred languages of the user.

30. (Original): The method of claim 24, wherein the message comprises at least one of the following: text, graphics, video, animation, sound and instructions.

31. (Previously Presented): The method of claim 24, wherein the received data related to the user's technical proficiency is provided by the user.

32. (Previously Presented): The method of claim 27, wherein inferring comprises inferring the level of the user's technical proficiency based on user activity.

33. (Previously Presented): The method of claim 24 wherein the receiving of the data related to the user's technical proficiency comprises retrieving the data from a database.

34. (Original): The method of claim 25 further comprising receiving an HTTP (HyperText Transfer Protocol) indicator at the first computer in response to a user's HTTP request for a URL (Universal Resource Locator) provided by the second computer.

35. (Previously Presented): An apparatus for providing a message based on a user's technical proficiency comprising:

a data receiver arranged and structured so as to receive data related to the user's technical proficiency;

a data store arranged and structured so as to store a plurality of messages wherein the plurality of messages include a first message that corresponds to a first level of technical proficiency and a second message that corresponds to a second level of technical proficiency; and

a first computer that selects a message from the plurality of messages and provides the selected message.

36. (Previously Presented): The apparatus of claim 35, wherein the first computer includes software used to determine the user's technical proficiency by inferring a level of user technical proficiency.

37. (Previously Presented): The apparatus of claim 36, wherein inferring comprises inferring the level of the user's technical proficiency based on user activity.

38. (Previously Presented): An apparatus for providing a message based on a user's technical proficiency, the apparatus comprising:

means for receiving an indicator;

means for receiving data relating to the user's technical proficiency;

means for selecting a message from a database storing a plurality of messages wherein the selecting is based on the received indicator and the received data relating to the user's technical proficiency, wherein the plurality of messages include a first message that corresponds to a first level of technical proficiency and a second message that corresponds to a second level of technical proficiency; and

means for providing the selected message to a computer.

39. (Previously Presented): The apparatus of claim 35 wherein the computer is a client computer.

40. (Previously Presented): The apparatus of claim 38, wherein the means for selecting the message further comprises means for selecting the message from a plurality of messages based on one or more preferred languages of the user.

41. (Previously Presented): The apparatus of claim 38, wherein the data related to the user's technical proficiency is provided by the user.

42. (Previously Presented): The apparatus of claim 38, wherein the apparatus further comprises means for inferring the user's technical proficiency.

43. (Previously Presented): The apparatus of claim 38, wherein receiving the data related to the user's technical proficiency comprises retrieving the data from a database.

44. (Previously Presented): The method of claim 24 wherein selecting a message is performed at an intervening agent between a client computer and a server computer.

45. (Previously Presented): The method of claim 44 wherein the intervening agent is a proxy server.

46. (Previously Presented): The method of claim 24 wherein the selected message comprises at least one of a network status indicator, a file status indicator, or an error message.

47. (Previously Presented): The apparatus of claim 35 wherein the first computer is an intervening agent between a client computer and a server computer.

48. (Previously presented): The apparatus of claim 47 wherein the intervening agent is a proxy server.

49. (Previously Presented): The apparatus of claim 35 wherein the selected message comprises at least one of a network status indicator, a file status indicator, or an error message.

50. (Previously Presented): The apparatus of claim 35 wherein the first computer includes software for selecting a message from a plurality of messages based on one or more preferred languages of the user.

51. (Previously Presented): The apparatus of claim 50 wherein the first computer includes software for inferring the one or more preferred languages of the user.

52. (Previously presented): The method of claim 24 wherein the selected message comprises a web page.

53. (Previously Presented): The apparatus of claim 35 wherein the selected message comprises a web page.

54. (Previously Presented): The apparatus of claim 38 wherein the selected message comprises a web page.